

REMARKS

Claims 1-20 are pending in this case. Claims 1-13 and 20 are allowed. Claims 9 and 19 have been amended.

Section 102 Rejection

The Examiner has rejected Claim 19 under 35 U.S.C. §102(b) as anticipated by US Patent No. 3,779,599 ("Gottfried"). For the reasons enumerated below, this rejection is respectfully traversed.

Claim 19 is written in Jepson format and is directed to an infant changing board comprising a changing surface for supporting the weight of an infant during a diaper change, having the improvement of a restraining mechanism for restraining the shoulders of an infant during a diaper changing operation. The restraining mechanism includes an adjustable strap system which has at least a right strap and a left strap which engage one another via a quick release system.

As written in Jepson format, Claim 19 is to be construed as reciting an improvement over the art (see MPEP §2129). In this case, Claim 19 sets forth an improvement over baby changing pads. As recognized in the art, such pads include generally flat surfaces, such that the infant is positioned in a substantially horizontal manner. Of course, this is required for properly changing an infant.

Further, it is well-established that the claims are to read in view of the specification. In the present case, a proper reading of the claims in view of the specification makes clear that the present invention is directed to baby changing apparatus as that term is known and used in the art, namely as a flat surface suitable for changing a baby's diaper. Claim 19 is, therefore, properly construed as such.

Applicant has thoroughly read the Gottfried reference and notes that it discloses a juvenile seating system, not a "changing board comprising a changing surface for supporting the weight of an infant during a diaper change" as alleged by the Examiner (Office Action, page 2). The Examiner is alleging that the juvenile seating system of Gottfried is capable of being used as a "baby changing apparatus" without regard for the art-recognized meaning of that term, as discussed above. Based on this mischaracterization of the Gottfried reference, the Examiner goes on to allege that the restraints disclosed in Gottfried (which are, of course, to secure the child in the seat) therefore anticipate the restraints of the present invention, again without regard for a proper construction of Claim 19.

As the Gottfried reference does not disclose a changing board comprising a surface for supporting the weight of an infant during a diaper change and for positioning an infant in a substantially horizontal position, it cannot anticipate Claim 19.

Accordingly, withdrawal of the rejection of Claim 19 under 35 U.S.C. §102(b) is appropriate and is respectfully requested.

Section 103 Rejections

The Examiner has rejected claims 14, 15 and 19 under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 4,689,844 ("Alivizatos") in view of Gottfried. For the reasons enumerated below, this rejection is respectfully traversed.

The Examiner alleges that Alivizatos discloses an apparatus comprising a generally planar shield portion having an upper surface supporting an infant and a lower surface contacting a diaper changing support surface, wherein the shield portion includes a fabric pocket having a compartment. The Examiner

alleges that Alivizatos discloses the invention substantially as claimed, but notes that Alivizatos fails to disclose a shoulder restraining means (an important aspect of the present invention). However, the Examiner fails to note that Alivizatos does not disclose a baby changing apparatus.

The Examiner alleges that it would have been obviously to one of skill in the art to modify Alivizatos by substituting the restraining means of Gottfried. The Examiner reasons that this is the case because it is a "design choice" to restrain either the upper portion, the lower portion (as is the case in Alivizatos), or both. However, the Examiner fails to properly consider the purpose of such restraints.

Applicant has read the Alivizatos reference and notes that it is directed to a support pad filled with polystyrene beads and that may be used for restraining an infant in a generally reclined position for leisure purposes. As such and keeping within that purpose, the infant's lower body may be restrained. The pad is generally for use as a lounging mattress, swimming pool float, chair or bench seat. The pad may receive multiple cushions such that it can be configured for use with various parts of the body (see Abstract).

Alivizatos does not teach or disclose a baby changing pad, as in the present invention. Therefore, one of skill in the art reading Alivizatos could not be lead thereby to a baby changing pad of the present invention, with all of the benefits thereof over known baby changing pads, as there is no suggestion or teaching to do so. Specifically, as Alivizatos does not disclose a baby changing pad, one of skill in the art would have no motivation to modify the pad of Alivizatos with the upper body restraints of Gottfried (which, even still, would not result in the present invention).

In fact, Alivizatos arguably teaches away from the present invention by disclosing restraint means for the lower portion of an infant (see Figure 1), which serves to restrain the lower portion of the baby for the intended purpose of a pad of Alivizatos, namely to secure the infant for leisure purposes.

As Alivizatos does not teach a baby changing pad at all, let alone one attendant with the problems of known baby changing pads, it cannot and does not provide the necessary disclosure, suggestion or motivation to serve as a reference under Section 103. Gottfried, of course, cannot remedy these deficiencies of Alivizatos.

In response to Applicant's previous arguments, the Examiner states that knowledge generally available to one of skill in the art would teach one to substitute one restraining means for another restraining means and that one of skill in the art has the "design choice" to either restrain the upper portion, the lower portion, or both to preventing a baby from falling (Office Action, page 5).

However, Applicant respectfully points out that the restraint means in the present invention serve to secure the baby while allowing the baby's diaper to be changed. It is not merely a "design choice", but rather serves to carry out a specific function in cooperation with the other elements of the claimed invention. In order for Alivizatos and Gottfried to render the present invention obvious, there must, for example, be disclosure of (1) all elements of the present invention in the cited references and a (2) suggestion or motivation to combine them, to arrive at the present invention. In the present case, Applicant respectfully points out that Alivizatos isn't even directed to baby changing pads, let alone the problems therewith, such that a combination of references could support a rejection under Section 103.

The Examiner has also rejected Claims 16-18 under 35 U.S.C. §103(a) as being unpatentable over Alivizatos in view of Gottfried as applied to claim 15 and further in view of US Patent No. 2,834,970 ("Nappe"). This rejection is respectfully traversed.

Applicant has discussed the deficiencies of Alivizatos above, and notes that Gottfried fails to remedy such deficiencies. Likewise, Nappe also fails to remedy the noted deficiencies of Alivizatos. Again, Alivizatos is simply not directed to baby changing pads and the problems directed thereto. Accordingly, there is no suggestion or motivation found in Alivizatos or elsewhere to modify known baby changing pads in a manner disclosed by Gottfried or Nappe such that one of skill in the art would arrive at the present invention.

Accordingly, withdrawal of the rejection of Claims 14, 15 and 19 under 35 USC §103(a) is appropriate and is respectfully requested.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and an early Notice of Allowance is earnestly requested. Please direct any questions concerning this Response to Applicant's undersigned representative.

Respectfully submitted,



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